

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON**

**HENRY KEITH WYKLE,**

*Petitioner,*

**v.**

**Civil Action No. 2:15-cv-09060**

**DAVID BALLARD, Warden,  
Mt. Olive Correctional Complex,**

*Respondent.*

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**RESPONDENT'S MOTION TO DISMISS  
PETITION AS UNTIMELY FILED**

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Henry Keith Wykle (the "Petitioner") filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus on July 1, 2015. Based upon the Procedural History as set forth in the Respondent's Memorandum of Law filed herewith, the Petition is clearly untimely. The petitioner's failure to file this action in a timely manner is also supported by the procedural recitation and supporting facts contained within his own petition.

Accordingly, the Respondent Warden, by counsel, moves to dismiss the present petition with prejudice for failure to file within the limitation period prescribed by 28 U.S.C. § 2244(d)(1).

Respectfully submitted,

DAVID BALLARD, Warden,  
*Respondent,*

By counsel,

PATRICK MORRISEY  
ATTORNEY GENERAL

/s/ Laura Young

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 20, 2015, I electronically filed the foregoing “Respondent’s Motion to Dismiss” using the CM/ECF system, and I hereby certify that I have mailed, by United States Postal Service, a copy of said Answer to the following non-CM/ECF participant:

Henry Keith Wykle  
DOC# 18472  
Mount Olive Correctional Complex  
One Mountainside Way  
Mt. Olive, WV 25185

s/ Laura Young  
LAURA YOUNG